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West Des Moines City Council Proceedings
Thursday, March 23, 2017

Mayor Steven K. Gaer opened the special meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Thursday, March 23, 2017 at 7:30 a.m. Council members present were: R. Messerschmidt, J. Sandager, and K. Trevillyan. Council members J. Mickelson and R. Trimble participated via telephone.

On Item 2. Agenda. It was moved by Trevillyan, second by Messerschmidt to approve the agenda as presented.

Vote 17-152: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 3(a) House File 484 - Pending Water Works Legislation

Mayor Gaer reported a joint workshop was held with the City Council and West Des Moines Water Works Board on Monday, which included a lot of public comment. He stated a majority of the three Council members that can vote on this issue expressed an interest in taking a neutral position on this legislation.

Julie Stauch, 4712 Westwood Drive, reported there a fiscal note has been attached to this bill, which indicates the fiscal impact of the bill cannot be determined. She believes since the State can't tell us what they are going to invest in this, the local governments will be stuck with all the costs down the road. She also noted the fiscal note points out some things that were missing from the bill.

It was moved by Mickelson, second by Sandager to approve Motion - Direct Staff for the City to Take a Position of "Neutral" on this Legislation.

Vote 17-153: Mickelson, Sandager ... 2 yes
Messerschmidt ... 1 no
Trevillyan, Trimble ... 2 abstain due to potential conflict of interest
Motion carried.

Mayor Gaer stated his understanding is the House isn't taking any more amendments on this bill, so the City will seek its desired amendment, to preclude the transfer of assets from the water utilities to the cities until after a regional utility has been approved, in the Senate version of the bill.

On Item 3(b) Senate File 431 - Pending Cell Phone Towers Legislation

Tom Cope, Lobbyist with Avenson, Oakley and Cope, reported this bill would establish a uniform process for approval of siting of small wireless facilities. He stated there are some concerns with

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this bill among local governments, and the City of Des Moines and the Iowa League of Cities are both registered as “opposed” to the bill.

It was moved by Sandager, second by Mickelson to approve Motion - Direct Staff for the City to Take a Position of “Opposed” to this Legislation.

Vote 17-154: Messerschmidt, Mickelson, Sandager, Trevillyan ... 4 yes

Trimble ... 1 abstain due to potential conflict of interest

Motion carried.

On Item 3(c) House Study Bill 43 - Pending Local Option Sales Tax Legislation

Mayor Gaer stated the City Council has been advocating for this legislation for many years. He noted the goal is not necessarily to raise the sales tax, but to give the residents the right to vote on the issue. He explained how current state law prevents metro cities from voting independently on a local option sales tax, as they would have to be grouped altogether for such a vote. He also stated the City’s plans for a potential local option sales tax would be for 50 percent of the revenue to go towards property tax relief, which would reduce property taxes approximately 8 percent. The other 50 percent could be allocated to fund projects, such as improvements within the City’s park system.

It was moved by Sandager, second by Mickelson to approve Motion - Direct Staff for the City to Take a Position in “Favor” of this Legislation.

The Mayor and Council spoke in support of this bill and the potential benefits of a local option sales tax.

Vote 17-155: Messerschmidt, Mickelson, Sandager, Trevillyan ... 4 yes

Trimble ... 1 abstain due to potential conflict of interest

Motion carried.

On Item 3(d) Senate File 489 - Pending Fireworks Legislation

Mr. Cope reported this bill would allow for the sale and use of consumer fireworks, and it does allow cities to prohibit or limit the use of fireworks but not the sale of fireworks. He stated the Iowa League of Cities is registered as “undecided” and the City of Des Moines has not registered a position on the bill. The bill does include a provision to allow cities to opt out.

City Attorney Dick Scieszinski noted the sale and storage of fireworks would be subject to the zoning code.

Council member Trimble stated this bill has now passed through the Senate and has moved on to the House. He expressed concerns about the process the City is now taking of holding a public meeting to discuss and vote on the City’s position for these pending bills, as things can change

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quickly with legislation and this process doesn't seem very practical.

Council member Mickelson agreed with Council member Trimble's concerns.

City Attorney Scieszinski noted this procedure is being taken in response to concerns expressed by residents for the lack of citizen input that went into the City's original position in favor of House File 484 (pending Water Works legislation). He stated his legal opinion is that the City was not in violation of open meeting laws, but a complaint has been filed with the Iowa Public Information Board.

Council member Sandager suggested the Legislative Subcommittee could take a more active role in reviewing pending legislation as it progresses throughout the legislative session.

The Mayor and Council held further discussion about the best procedure for the Council members to weigh in on pending legislation while remaining in compliance with open meeting laws and maintaining opportunities for public input.

Mayor Gaer requested that staff work on developing a procedure for this going forward.

It was moved by Messerschmidt, second by Sandager to approve Motion - Direct Staff for the City to Take a Position of "Undecided" on this Legislation.

Vincent White, 9414 Davis Drive, inquired if the Council has received input from the Fire Department on this legislation and the potential safety concerns associated with it.

The Mayor and Council stated their understanding is the Fire Department is opposed to this legislation.

Mr. Cope suggested it might be more appropriate for the City to remain "unregistered" as opposed to registering as "undecided" because they can be interpreted differently.

Council member Sandager rescinded his second to the motion, and Council member Messerschmidt rescinded his original motion.

It was moved by Messerschmidt, second by Mickelson to approve Motion - Direct Staff for the City to Remain "Unregistered" on this Legislation.

Vote 17-156: Messerschmidt, Mickelson, Sandager, Trevillyan ... 4 yes
Trimble ... 1 abstain due to potential conflict of interest
Motion carried.

On Item 3(e) House Study Bill 60 - Pending Legislation Regarding the Transfer of Development Rights

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Mr. Cope reported the bill is dead for this session, as it did not make it out of the House Local Government Subcommittee.

Mayor Gaer noted since the bill is dead for this session, there is no reason to vote on it.

On Item 3(f) Senate File 416 / House File 134 - Pending Legislation to Prohibit Local Authorities from Limiting the Occupancy of a Residence Based on Familial Relations

Mr. Cope reported the Iowa League of Cities and the Metro Coalition are both registered as “opposed” to this legislation, and he doesn’t see any downside to the City registering that way as well.

It was moved by Messerschmidt, second by Trevillyan to approve Motion - Direct Staff for the City to Take a Position of “Opposed” to this Legislation.

Vote 17-156: Messerschmidt, Mickelson, Sandager, Trevillyan ... 4 yes
Trimble ... 1 abstain due to potential conflict of interest
Motion carried.

On Item 4. The Special Meeting Notice was Received and Filed.

The meeting was adjourned at 8:04 a.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor